



# House of Representatives

General Assembly

**File No. 219**

February Session, 2012

House Bill No. 5355

*House of Representatives, April 2, 2012*

The Committee on Education reported through REP. FLEISCHMANN of the 18th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## ***AN ACT CONCERNING MUSEUM PROPERTY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) As used in this section  
2 and sections 2 to 10, inclusive, of this act:

3 (1) "Museum" means any nonprofit or public institution that is  
4 organized for educational, scientific, historic or aesthetic purposes, and  
5 which owns, borrows, cares for, studies, archives or exhibits property.  
6 Museums may include, but not be limited to, historical societies, parks,  
7 historic sites and monuments, archives and libraries;

8 (2) "Property" means any tangible object in the possession of and  
9 under a museum's care that has intrinsic educational, scientific,  
10 historical, artistic, aesthetic or cultural value;

11 (3) "Loan" means a deposit with a museum that (A) title to the  
12 property is not transferred to the museum, (B) the loan agreement for  
13 such deposit does not include a provision that the museum acquire title at

14 some time after such deposit is made, or (C) the loan agreement for such  
15 deposit includes an option for the museum to acquire title at some time  
16 after such deposit is made;

17 (4) "Lender" means a person whose name appears on the records of  
18 a museum as the person legally entitled to, or claiming to be legally  
19 entitled to, property held by the museum or, if such person is  
20 deceased, the legal heirs of such person.

21 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) Any property on loan to a  
22 museum that is subject to a loan agreement shall be deemed to be  
23 donated to the museum if (1) no claim of ownership is made or action  
24 filed to recover such property by the owner after termination or  
25 expiration of the loan, and (2) the museum has given notice, in  
26 accordance with the provisions of section 5 of this act, and no claim of  
27 ownership is made or action to recover such property is filed on or  
28 before sixty days after the publication of the second notice.

29 (b) A museum may terminate a loan of property for any property  
30 that was loaned to the museum for an indefinite term if the property  
31 has been in the possession of the museum for at least five years. Any  
32 property on loan to a museum and whose loan agreement indicates  
33 that such property is on permanent loan to the museum shall be  
34 considered loaned for an indefinite term for purposes of this  
35 subsection. The property for any loan of property that has been  
36 terminated pursuant to this subsection shall be deemed donated to the  
37 museum.

38 (c) A museum may terminate a loan of property for any property  
39 that was loaned to the museum for a specified term after the expiration  
40 of such specified term, provided the museum provides notice of such  
41 termination in accordance with the provisions of section 5 of this act.  
42 The property for any loan of property that has been terminated  
43 pursuant to this subsection shall be deemed donated to the museum.

44 (d) The owner of property loaned to a museum shall provide such  
45 museum with written notice of (1) any change of the address of such

46 owner, (2) the designated agent of such owner, (3) the address of such  
47 designated agent, and (4) the name and address of any new owner of  
48 such property if there is a change in the ownership of such property  
49 loaned to the museum.

50 (e) A museum accepting a loan of property shall provide the owner  
51 of such property a written copy of the provisions of sections 1 to 10,  
52 inclusive, of this act.

53 Sec. 3. (NEW) (*Effective October 1, 2012*) Any property in the  
54 possession of a museum that is not subject to a loan agreement shall be  
55 deemed to be abandoned if (1) such property is unclaimed and has  
56 been in the possession of the museum as unclaimed property for at  
57 least five years, and (2) the museum has given notice, in accordance  
58 with the provisions of section 5 of this act, and no claim of ownership  
59 is made or action to recover such property is filed on or before sixty  
60 days after the publication of the second notice. Any abandoned  
61 property in the possession of a museum shall become the property of  
62 such museum.

63 Sec. 4. (NEW) (*Effective October 1, 2012*) Each museum shall maintain  
64 a record, in accordance with the regulations adopted by the State  
65 Librarian pursuant to section 10 of this act, of all property on loan to  
66 the museum, including the name and address of the lender, if known,  
67 and the dates that such property is to be on loan to the museum and a  
68 copy of the loan agreement for such property. The museum shall  
69 provide a copy of such record and the loan agreement to the lender of  
70 property at the time that such lender makes the loan of property to the  
71 museum. If a museum is notified of a change in ownership of any  
72 property on loan to the museum, the museum shall create a new  
73 record for such property and update the existing loan agreement and  
74 shall provide a written copy of such new record and such updated  
75 loan agreement to the new owner of such property. If a museum  
76 becomes the owner of any property on loan to the museum, the  
77 museum shall maintain a record of such ownership in accordance with  
78 the regulations adopted by the State Librarian pursuant to section 10 of

79 this act.

80 Sec. 5. (NEW) (*Effective October 1, 2012*) (a) Prior to a museum (1)  
81 accepting donated property pursuant to section 2 of this act, or (2)  
82 taking ownership of abandoned property pursuant to section 3 of this  
83 act, the museum shall provide notice that the museum may become the  
84 owner of such property. Such notice shall be sent by certified mail,  
85 return receipt requested, to the address of the lender on record with  
86 the museum.

87 (b) If the museum does not have an address on record for the lender  
88 of the property, or the museum does not receive written proof of  
89 receipt of the mailed notice after thirty days after the date such notice  
90 was mailed, the museum shall publish a notice, at least once each week  
91 for two consecutive weeks, in a newspaper of general circulation in the  
92 town in which the museum is located and the town of the lender on  
93 record with the museum, if available. Such published notice shall  
94 contain: (1) A brief and general description of the unclaimed property,  
95 (2) the name and address of the lender on record with the museum, (3)  
96 a request that all persons who may have any knowledge of the  
97 whereabouts of the lender provide written notice to the museum, and  
98 (4) a statement that if no claim of ownership is made or action to  
99 recover such property is filed on or before sixty days after publication  
100 of the second notice, the property shall be deemed donated or  
101 abandoned and shall become the property of the museum.

102 (c) For purposes of this section, if the loan of property was made to  
103 a branch of a museum, the museum shall be considered to be located  
104 in the town in which such branch is located. Otherwise the museum is  
105 located in the town in which it has its principal place of business.

106 Sec. 6. (NEW) (*Effective October 1, 2012*) (a) If a museum receives a  
107 written claim of ownership for any property for which notice of  
108 donation or abandonment was made, pursuant to section 5 of this act,  
109 from the lender, or the designated agent of the lender, the museum  
110 shall return such property to the lender or carry out the disposition of  
111 such property as the lender requests not later than sixty days after

112 receipt of such written claim of ownership. The lender shall advise the  
113 museum in writing as to the disposition of such property or how such  
114 property is to be returned to the lender. Any costs incurred as a result  
115 of returning such property or the disposition of such property shall be  
116 the responsibility of the lender unless the lender and the museum have  
117 mutually agreed to alternate arrangements.

118       (b) If a museum receives a written claim of ownership for any  
119 property for which notice of donation or abandonment was made,  
120 pursuant to section 5 of this act, from a person other than the lender on  
121 record with the museum, the museum shall, not later than sixty days  
122 after receipt of such written claim of ownership, determine if such  
123 ownership claim is valid. A claimant shall submit proof of ownership  
124 to the museum with such written claim of ownership. If more than one  
125 person submits a written claim of ownership, the museum may delay  
126 its determination of ownership until the competing claims are resolved  
127 by agreement or legal action. If the museum determines that such  
128 written claim of ownership is valid or if the competing claims are  
129 resolved by agreement or judicial action, the museum shall return the  
130 property to the claimant submitting the valid claim of ownership or  
131 dispose of the property as such valid claimant requests. Any costs  
132 incurred as a result of returning such property or the disposition of  
133 such property shall be the responsibility of the valid claimant unless  
134 such valid claimant and the museum have mutually agreed to  
135 alternate arrangements.

136       (c) If no written claim of ownership is presented to the museum on  
137 or before sixty days after the publication of the second notice, such  
138 property shall be deemed donated or abandoned and title to the  
139 property shall vest in the museum, free of all claims from the lender or  
140 other persons claiming title under the lender.

141       (d) Any person who purchases or otherwise acquires property from  
142 a museum that obtained such property by donation or abandonment  
143 pursuant to this section and sections 2 and 3 of this act shall acquire  
144 good title to such property.

145       Sec. 7. (NEW) (*Effective October 1, 2012*) (a) A museum may apply  
146 conservation or protective measures to any property on loan to the  
147 museum without the permission of the lender or formal notice to the  
148 lender, unless the written loan agreement for such property provides  
149 otherwise, if (1) action is required to (A) protect such property or other  
150 property in the possession of the museum, or (B) protect the health and  
151 safety of the public or museum staff because such property is a hazard,  
152 and (2) (A) the museum is unable to contact the lender at the address  
153 on record for the lender within three days before the time the museum  
154 determines action is necessary, or (B) the lender does not (i) respond or  
155 agree to the conservation or protective measures recommended by the  
156 museum, and (ii) terminate the loan and take possession of such  
157 property on or before the third day that the museum contacts such  
158 lender.

159       (b) If a museum applies conservation or protective measures to any  
160 property on loan to the museum under this section, or with the  
161 agreement of the lender, unless the written loan agreement for such  
162 property provides otherwise, the museum shall acquire a lien on such  
163 property in an amount equal to the costs incurred by the museum for  
164 such conservation or protective measures taken.

165       (c) The museum shall not be liable for injury to or loss of any  
166 property that was on loan to the museum and for which conservation  
167 or protective measures were taken under this section, if the museum  
168 (1) had a reasonable belief at the time the conservation or protective  
169 measures were taken that such measures were necessary to protect  
170 such property or other property in the possession of the museum, or  
171 that such property was a hazard to the health and safety of the public  
172 or museum staff, and (2) exercised reasonable care in the choice and  
173 application of such conservation and protective measures.

174       Sec. 8. (NEW) (*Effective October 1, 2012*) The provisions of sections 1  
175 to 10, inclusive, of this act shall not apply to any property in the  
176 possession of a museum pursuant to the Native American Graves  
177 Protection and Repatriation Act, P.L. 101-601.

178       Sec. 9. (NEW) (*Effective October 1, 2012*) (a) Nothing in sections 1 to  
 179       10, inclusive, of this act shall be construed to abrogate the rights and  
 180       obligations of a lender, claimant or museum identified in a written  
 181       loan agreement.

182       (b) The provisions of sections 1 to 10, inclusive, of this act shall not  
 183       preclude a museum from availing itself of any other means of  
 184       establishing or perfecting title to property in the possession of the  
 185       museum.

186       (c) A museum shall be entitled to bring a civil action to recover the  
 187       costs and expenses and reasonable attorney's fees incurred while  
 188       successfully defending an action from a party challenging the  
 189       ownership right of such museum to any property acquired by such  
 190       museum pursuant to sections 2, 3 and 6 of this act.

191       Sec. 10. (NEW) (*Effective October 1, 2012*) The State Librarian shall  
 192       adopt regulations, in accordance with the provisions of chapter 54 of  
 193       the general statutes, to (1) prescribe the form of written notification to  
 194       persons loaning property pursuant to section 2 of this act, and (2) the  
 195       procedures for recording and maintaining records of property on loan  
 196       to a museum pursuant to section 4 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	New section
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2012</i>	New section
Sec. 5	<i>October 1, 2012</i>	New section
Sec. 6	<i>October 1, 2012</i>	New section
Sec. 7	<i>October 1, 2012</i>	New section
Sec. 8	<i>October 1, 2012</i>	New section
Sec. 9	<i>October 1, 2012</i>	New section
Sec. 10	<i>October 1, 2012</i>	New section

**ED**           *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 13 \$</b>	<b>FY 14 \$</b>
Library, CT State; UConn; Department of Economic & Community Development	GF - Potential Savings	Potential	Potential
Library, CT State; UConn; Department of Economic & Community Development	GF - Potential Cost	less than \$50 per item	less than \$50 per item

Note: GF=General Fund

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 13 \$</b>	<b>FY 14 \$</b>
Various Municipalities	Potential Savings	Potential	Potential
Various Municipalities	Potential Cost	less than \$50 per item	less than \$50 per item

### **Explanation**

The bill results in a potential savings to the Connecticut State Library, the University of Connecticut and the Department of Economic and Community Development along with various municipalities, all which operate museums. The savings is due to allowing museums to place a lien against certain donated property for the cost of conservation and protective measures for certain donated property. The exact savings is dependent upon the properties meeting the requirements of the bill and the costs of conservation and preservation employed.

Additionally the bill results in potential gain of asset value to such museums as it allows for the taking of ownership of certain properties loaned to the museums if a lender fails to reclaim it and other requirements are met. The taking of ownership results in a cost of less

tha \$50 per donated item due to notice requirements to lenders.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of unclaimed items, measures taken to conserve items and inflation.

**OLR Bill Analysis****HB 5355*****AN ACT CONCERNING MUSEUM PROPERTY.*****SUMMARY:**

This bill allows a museum:

1. after giving required notice, to take ownership of certain property loaned to it if the lender fails to reclaim it after the loan agreement expires or, if there is no agreement or the loan is for an indefinite period, the property is unclaimed and has been in the museum's possession for at least five years and
2. unless a written loan agreement provides otherwise, to apply conservation and protective measures to loaned property in its possession without the lender's permission under certain circumstances.

It gives the museum a lien against the property for the cost of conservation and protective measures and, as long as its actions were reasonable, relieves it from liability for any damage to the property the measures cause.

The bill also requires:

1. museums to keep records of loaned property and provide a written copy of the bill's provisions to everyone who loans property to them;
2. owners loaning property to give museums written notice of (a) any change of address, (b) appointment of any designated agent and the agent's address, and (c) if ownership changes, the new owner's name and address; and

3. the state librarian to adopt regulations specifying the form of the required museum records and notices to lenders.

The bill applies to nonprofit or public institutions, including historical societies, parks, historic sites and monuments, archives, and libraries, organized for scientific, educational, cultural, historic, or aesthetic purposes, and to tangible objects in their possession and care that have intrinsic educational, scientific, historical, aesthetic, artistic, or cultural value. It does not apply to property a museum holds under the federal Native American Graves Protection and Restoration Act.

The bill states that its provisions (1) cannot be construed to abrogate a museum's, lender's, or other claimant's rights and obligations identified in a written loan agreement or (2) do not preclude a museum from using other means to establish or perfect title to property in its possession. It also gives a museum the right to sue to recover costs and attorneys' fees incurred in successfully defending its title to property acquired under the bill.

EFFECTIVE DATE: October 1, 2012

## **GAINING OWNERSHIP OF LOANED PROPERTY**

### ***Property Subject to the Ownership Process (§§ 2 & 3)***

A museum may use the bill's procedure to take ownership of loaned property in its possession when:

1. for property subject to a loan agreement and loaned for a specified time, no one claims ownership or seeks to recover the property after the loan is terminated or expires;
2. for property subject to a loan agreement and loaned for an indefinite period or for which the loan agreement specifies a permanent loan, no one claims ownership and the museum has held the property for at least five years; and
3. for property not subject to a loan agreement, the property is unclaimed and has been in the museum's possession for at least

five years.

Under the bill, loaned property is property deposited with a museum without any transfer of ownership, and includes property deposited under a loan agreement giving the museum the right to acquire the property in the future.

***Notice Requirements (§ 5)***

Before taking ownership of loaned property, a museum must send written notice that it may do so to the lender, at the address listed in the museum's records. Under the bill, the lender is the person whose name appears in the museum's records as being legally entitled to the property or, if the person has died, his or her heirs.

The notice must be sent by certified mail, return receipt requested. If the museum has no address listed or if, after 30 days, it does not receive written proof that the notice was received, it must publish a notice at least once a week for two consecutive weeks in a general circulation newspaper in the towns where the museum and, if available, the lender, are located.

The newspaper notice must:

1. give a brief and general description of the property;
2. provide the lender's name and address as listed in the museum's records;
3. ask those with knowledge of the lender's whereabouts to notify the museum; and
4. state that, if the museum does not receive a written ownership claim or notice of any other action to reclaim the property within 60 days after publishing the second notice, the property will be considered abandoned or donated and become the museum's property.

If the property was loaned to a museum branch, the museum's

location is considered to be that of the branch. Otherwise, the museum's location is considered to be the town where it has its principal place of business.

***Ownership Claims (§ 6 (a) & (b))***

If, after giving the required notice, the museum receives a written claim of ownership for the property from the lender or his or her designated agent, it must return the property within 60 days after receiving the claim. The lender must give written instructions on how to dispose of the property or return it. Unless the museum and the lender agree on other arrangements, the lender is responsible for any costs of disposing of or returning the property.

If the written claim is from a person other than the lender specified in the museum's records, the museum must determine the validity of the claim within 60 days after receipt, based on proof of ownership the claimant must submit with the claim. If the museum receives more than one written claim of ownership, the bill allows it to delay its ownership determination until the competing claims are resolved by agreement or legal action.

Once ownership is determined, the bill requires the museum to return or dispose of the property as the owner requests. Unless the owner and the museum agree on other arrangements, the owner is responsible for any costs for returning or disposing of the property.

***If No One Claims Ownership (§ 6 (c) & (d))***

If the museum receives no written ownership claims within 60 days after it publishes the second required notice, the property is considered donated or abandoned and the museum become its owner free of all ownership claims by the lender or anyone else claiming ownership. The bill specifies that anyone who buys or otherwise acquires the property from the museum acquires good title to it.

**AUTHORIZATION TO APPLY CONSERVATION AND PROTECTIVE MEASURES (§ 7)**

Unless the written loan agreement provides otherwise, the bill

allows a museum to apply conservation or protective measures to loaned property without formal notice to, or permission from, the lender if:

1. the action is required to protect the property itself, other museum property, or, because the property is a hazard, the health and safety of the museum staff or the public and
2. within three days before applying the measures, the museum (a) cannot contact the lender at the address in the museum's records or (b) the lender does not respond or agree to the recommended measures and fails to take the property back on or before the third day after being contacted.

If the museum applies the measures under these circumstances, it acquires a lien on the property for their cost. The bill also relieves the museum of any liability for damage the measures cause to the property if it (1) reasonably believed the measures were needed to protect (a) the property or other property in its possession or (b) museum staff or the public from a health and safety hazard caused by the property and (2) exercised reasonable care in choosing and applying the measures.

#### **MUSEUM RECORDKEEPING (§ 4)**

The bill requires museums to keep records of all loaned property according to regulations the state librarian must adopt. Each loan's record must include (1) the lender's name and address, if known; (2) the dates the property is to be on loan; and (3) a copy of the loan agreement. The museum must give the lender a copy of the record and the loan agreement when he or she loans the property. If notified of a change in the ownership of any loaned property, the museum must create a new record, update the loan agreement, and provide copies to the new owner. If the museum becomes the property's owner, it must maintain an ownership record according the state librarian's regulations.

#### **COMMITTEE ACTION**

## Education Committee

Joint Favorable

Yea 32      Nay 0      (03/14/2012)